

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT  
DISTRICT OF MASS.

DONALD C. HUTCHINS

Plaintiff

vi.

CARDIAC SCIENCE, INC., et al;

Defendants

Civil Action: **04-30126-MAP**

**MEMORANDUM OF LAW IN SUPPORT OF  
PLAINTIFF'S MOTION FOR DECLARATORY JUDGMENT**

The Plaintiff, Donald C. Hutchins files this memorandum in support of the Plaintiff's Motion for Declaratory Judgment. There is confusion in the marketplace relating to the ownership and control of Copyright Registration Numbers TXu-213-859, TXu-210-208, Patent Re.34,800, Patent 5,913,685 and the registered trademark "*CPR Prompt*®". All are registered by the U.S. Patent Office in the name of Donald C. Hutchins as sole owner. This confusion impairs Hutchins' ability to sell, license, collect royalties or fulfill federal FDA and FCC regulations.

Currently over 50 distributors are marketing *CPR Prompt*® units over the Internet and entities such as The Compliant Corporation, Cardiac Science, Inc. who once marketed *CPR Prompt*® units as licensees are dissolved and no longer in business. Hutchins is left with the responsibility of paying patent office fees and complying with FDA and FCC regulations. Hutchins has received no royalty payments from any licensee

for over two years placing an extreme burden on him to meet the U.S. and foreign patent fees.

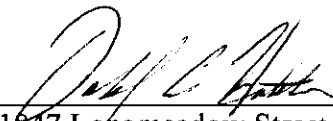
More troubling is the fact that this litigation has caused confusion in the marketplace allowing anyone to assume that these intellectual properties are in the public domain and that anyone can manufacture and market CPR Prompt units with no concern of infringement or expectation of paying Hutchins royalties. The confusion caused by Civil Action 04-30126-MAP has also diminished the value of these properties in the marketplace because no one would want to purchase or license these properties without some assurance that Hutchins could protect their interest. While this Declaratory Judgment will not eliminate the Cayuse, it is a foundation upon which Hutchins can reclaim his authority over these properties.

### **CONCLUSION**

A declaration is therefore necessary and appropriate in order that confusion regarding the ownership and control of Hutchins' intellectual properties be eliminated.

The Plaintiff, DONALD C. HUTCHINS, Pro Se

Dated: 2/2/06

  
\_\_\_\_\_  
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CERTIFICATE OF SERVICE

I, Donald C. Hutchins, 1047 Longmeadow Street, Longmeadow, Massachusetts 01106, hereby certify that I served a copy of the foregoing on the appropriate party by sending a copy by United Parcel Service to:

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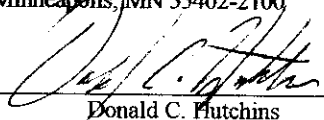
and

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Dated: 2/2/06

  
Donald C. Hutchins

